

What is a Disabled Veteran Business Enterprise (DVBE)?

For a business to be considered a Disabled Veteran Business Enterprise (DVBE), they must be certified with the State of California - Department of General Services in accordance with California Code of Regulations, Title 2, Section 1896.94. Please see the following website for more information about DVBE certification benefits and eligibility requirements: <http://www.pd.dgs.ca.gov/smbus/dvbecert.com>.

Only DVBEs who perform a commercially useful function relevant to this solicitation, may be used to satisfy the DVBE participation and/or incentive program requirements.

Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l): The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of §1896.61(f); is certified in accordance with §1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function.

As defined in MVC §999, a person or an entity is deemed to perform a "commercially useful function" if a person or entity does **all** of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is not further subcontracting a portion of the work that is greater than is expected by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

What is the DVBE participation requirement?

6% DVBE participation is required for this solicitation. A DVBE incentive will be given to bidders who provide DVBE participation above 6%. All bidders must meet the full participation requirement based on the total bid amount in order to be considered a responsive bidder.

PLEASE NOTE: *If, for this agreement, a contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, within 60 days of receiving final payment under this agreement (or within such other time period as may be specified elsewhere in this agreement) the contractor must certify in a report to the awarding department:*

- *the total amount the prime contractor received under the contract*
- *the name and address of the DVBE(s) that participated in the performance of the contract*
- *the amount each DVBE received from the prime contractor*
- *that all payments under the contract have been made to the DVBE(s)*
- *the actual percentage of DVBE participation that was achieved*

You will be required to report to State the actual dollars spent with each DVBE subcontractor on GSPD-05-105. If awarded the contract you will receive a form at the completion of the contract. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Military & Veterans Code (M&VC) § 999.5(d))

What is the DVBE Incentive Program?

The DVBE Incentive Program was established by statute and applies to contracts solely financed by State funds. This program is separate from the DVBE Participation Program. The incentive is designed to encourage bidders to partner with DVBE subcontractors.

The incentive may be combined with other incentives and preferences up to an established cap of \$100,000.00. **The incentive is used only for evaluation purposes and does not alter the amounts of the actual bids.**

Who is eligible to receive the incentive?

Any responsive bidder who has attained more than the required amount (6%) of DVBE participation per the solicitation instructions.

Documentation

To be considered a responsive bidder, bidders must document at least 6% DVBE participation commitment by completing and submitting the following forms:

- GSPD-05-105 Bidder's Declaration and Listing of Sub-Contractors
- STD. 843, DVBE Declarations

GSPD-05-105 Bidder's Declaration and Listing of Sub-Contractors: The form is used to document the proposed prime contractor and subcontractors, including their roles and responsibilities. The form must be submitted with the bid package.

STD. 843, DVBE Declarations: All disabled veteran owners and disabled veteran managers of the DVBE must complete the form and submit it with the bid package. A STD. 843 needs to be submitted by every DVBE supplier who is part of a bid whether they are the prime or a sub.

Bids that fail to submit the completed required forms to confirm the level of DVBE participation will not be eligible to receive the DVBE incentive and may be declared unresponsive due to DVBE participation requirements. Clerical and typographical errors on these forms may be corrected at the State's sole discretion.

Information submitted by the bidders to claim the DVBE incentive(s) will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the 2 CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and/or contract termination.

How does the DVBE Incentive Program Work?

The DVBE incentive is used only for evaluation purposes to determine the successful bidder and does not alter the amounts of the actual bids. A dollar cap of \$100,000.00 is set for all combined incentives and preferences.

For contracts to be awarded based on the Low Price Method, the incentive amount is equal to a percentage of the **lowest responsive and responsible bid** based on the amount of DVBE participation in the bid being evaluated per Table A below. The Computation Method does not include the small business preference; however, the small business preference may be applied and may affect the application of the incentive and the outcome of the ranking.

Table A – IFB (aka Low Price Method)

| Confirmed DVBE Participation of | DVBE Incentive Amount for IFB |
|--|---|
| 10% or more | 5% of lowest responsive and responsible bid |
| 9% - 9.99% | 4% of lowest responsive and responsible bid |
| 8% - 8.99% | 3% of lowest responsive and responsible bid |
| 7% - 7.99% | 2% of lowest responsive and responsible bid |
| 6.01% - 6.99% | 1% of lowest responsive and responsible bid |

Computation Method

Low Price Method

| Bidder Name | A | B | C |
|---|---------------------|---|--------------|
| Original Bid Price | \$98,000.00 | \$102,100.00 | \$100,000.00 |
| DVBE Participation for certified DVBE Prime or Subcontractors | 4% | 8% | 6% |
| Initial Ranking | Unresponsive | 2 | 1 |
| DVBE Incentive (from Table A) | n/a | 3% | n/a |
| Incentive Amount (% x Lowest Responsive and Responsible Bid Price) | n/a | \$3,000.00 (3% x \$100,000) | n/a |
| Adjusted Bid Price (Bidder's Price - Bidder's Incentive Amount) | n/a | \$99,100.00 (\$102,100 - \$3,000) | n/a |
| Final Rank: | Unresponsive | 1 | 2 |

Substitution of Proposed DVBE

- If awarded the contract, the DVBE subcontractors and/or contractors proposed by bidder must be used unless prior written notice of substitution is provided to the state and the state approves such substitution.
- The notice must include a written explanation of the reason for the substitution. The substitution request must be approved before the substitution can take place.
- Failure to adhere to at least the DVBE participation proposed by the successful bidder may be cause for contract termination and recovery of damages under the rights and remedies due the state under the default section of the contract.

Contractor understands and agrees that should award of this contract be based in part on their commitment to use the Disabled Veteran Business Enterprise (DVBE) subcontractor(s) identified in their bid or offer, per Military and Veterans Code 999.5 (e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in M&VC § 999.9; Public Contract Code (PCC) § 10115.10, or PCC § 4110 (applies to public works only).

To locate DVBE contractors:

Contact the department's contracting official named in this solicitation for any DVBE contractors who may have identified themselves as potential subcontractors, and to obtain suggestions for search criteria to possibly identify DVBE contractors for the solicitation. You may also contact the department's SB/DVBE Advocate for assistance – abeleda@slc.ca.gov

Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD) online certified firm database at <http://www.bidsync.com/DPXBisCASB>

Search by "Keywords" or United Nations Standard Products and Services Codes (UNSPSC), that apply to the elements of work you want to subcontract to a DVBE.

Check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: www.eprocure.dgs.ca.gov (View CSCR Ads).

The State of California, Department of General Services, Procurement Division, Office of Small Business and DVBE Services (OSDS) offers many services that assist contractor/business owners with a variety of information designed to streamline the State contracting process. OSDS also certifies DVBE contractors. For more information, please contact OSDS to find out more:

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| The State of California | www.pd.dgs.ca.gov/smbus |
| Department of General Services | Receptionist: (916) 375-4940 |
| Office of Small Business and DVBE Services | 24-hour recording: (916) 322-5060 |
| 707 Third Street, First Floor – Room 400 | FAX: (916) 375-4950 |
| West Sacramento, CA 95605 | OSDCHelp@dgs.ca.gov |